

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA
PLAINTIFF,**

HON. ROBERT H. CLELAND

CASE #: 11-20129

VS.

**SCOTT WILLIAM SUTHERLAND, ET. AL.
DEFENDANTS.**

**UNITED STATES OF AMERICA
PLAINTIFF,**

CASE #: 11-20066

VS.

**JEFF GARVIN SMITH, ET. AL.
DEFENDANTS.**

**UNITED STATES OF AMERICA
PLAINTIFF,**

CASE #: 12-20387

VS.

**SMILEY VILLA, ET. AL.
DEFENDANTS.**

GROUP 3 REACTION TO THE GOVERNMENT'S MEMORANDUM OF CASE MANAGEMENT

As ordered by the Court in its Preliminary Scheduling Order filed 9/7/12 (R462), liaison counsel for the Group 3 defendants, Margaret Sind Raben, hereby submits their reactions to the Government's Memorandum of Case Management (R470).

As an initial matter, the responses of Group 3 are limited by their lack of understanding of the criteria by which the Government has assigned defendants to the four groups. The Court should consider requiring the Government to disclose this information so that Liaison responses are as helpful as possible.

As to the Memorandum's categories, Group 3 states:

- 6a) **Discovery**: Group 3 agrees the resolutions of the motions for protective orders must be resolved prior to the dissemination of discovery.
- 6b) **Format and Cost of Discovery**: Group 3 agrees that the provision of discovery in digital format will result in multiple issues regarding the discovery. Group 3 requests the Government provide all discovery in an OCR or other readily searchable format. The Court should be aware that providing digital discovery to Defendants in custody may be problematic because, *inter alia*, the jails greatly differ in allowing inmates access to discovery and in allowing access to electronic discovery.
- 6c) **Motion Practice**: Group 3 agrees these proposals regarding motion practice should be discussed.
- 6d) **Local Rule Requiring Concurrence**: Group 3 agrees but would add "joinders" to the discussion. One possibility is to have liaison counsel submit "group" concurrences or lack of concurrences or partial group concurrences where possible. Undersigned liaison for Group 3 notes that each defendant must create and protect their own district court record for purposes of any appeal but joint responses are sufficient for this purpose.
- 6e) **Final Pretrial and Trial Date**: Group 3 generally agrees with the Government's position. Five Group 3 defendants are in custody.
- 6f) **Trial Groups**: Group 3 objects to the Government's suggestion that its identification of trial groups be deferred. If the Government is proposing to restrict or limit discovery sharing among defense attorneys or among defendants, Group 3 attorneys cannot determine whether there are any conflicts, *Bruton* or otherwise, until we know which Defendants are proposed to be tried together.

Respectfully Submitted,

s/Margaret Sind Raben
Counsel for Scott Perkins, D-24
Gurewitz & Raben, PLC
333 W. Fort Street, 11th floor
Detroit, MI 48226
(313) 628-4708
Email: msraben@aol.com
Attorney Bar Number: P39243

s/Edward Wishnow w/permission
Counsel for Clifford Rhodes, D-25
240 Daines St
Birmingham, MI 48009
(248) 258-1991
Email: edwishnow@aol.com
Attorney Bar Number: P22472

s/Ryan Machasic w/ permission
Counsel for David Drozdowski, D-17
Ryan H. Machasic, PC
134 Market St
Mount Clemens, MI 48043
(586) 914-6140
Email: machasiclaw@gmail.com
Attorney Bar Number: P70251

s/Jeffrey Butler w/permission
Counsel for Christopher Cook, D-27
540 Longpointe Dr
Lake Orion, MI 48362
(248) 770-3847
Email: jeffb507@aol.com
Attorney Bar Number: P25348

s/Richard H. Morgan w/permission
Counsel for Smiley Villa, D-18
Law Office of Richard H. Morgan Jr PC
485 Orchard Lake Rd Ste 203
Pontiac, MI 48341
(248) 334-8970
Email: rhm_jr@msn.com
Attorney Bar Number: P23924

s/Scott Keillor w/permission
Counsel for Jason Cook, D-31
2160 Washtenaw Rd
Ypsilanti, MI 48197
(734) 487-5537
Email: skeillor@umich.edu
Attorney Bar Number: P38880

s/David Cripps w/permission
Counsel for Sylvester Wesaw, D-21
Law Office of Cripps & Silver
431 Gratiot Ave
Detroit, MI 48226
(313) 963-0210
Email: david.cripps@sbcglobal.net
Attorney Bar Number: P34972

s/Sheldon Halpern w/permission
Counsel for Salvatore Battaglia, D-33
Sheldon Halpern PC
26339 Woodward Ave
Huntington Woods, MI 48070
Email: shalpern@sbcglobal.net
Attorney Bar Number: P14560

s/Michael McCarthy w/permission
Counsel for Howard Quant, D-23
Michael J. McCarthy PC
26001 5 Mile Rd
Redford, MI 48239
(313) 535-1300
Email: mjfmccld@yahoo.com
Attorney Bar Number: P30169

s/Joan E. Morgan w/permission
Counsel for Wayne Werth, D-35
Joan Ellerbusch Morgan PC
2057 Orchard Lake Rd
Sylvan Lake, MI 48320
(248) 335-9157
Email: joanmorgan127@comcast.net
Attorney Bar Number: P34482

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record.

s/Margaret Sind Raben (P39243)
Gurewitz & Raben, PLC
333 W. Fort Street, Suite 1100
Detroit, MI 48226
(313) 628-4708
email: msraben@aol.com